

## REMARKS

This is intended as a full and complete response to the Final Office Action dated February 6, 2004, having a shortened statutory period for response set to expire on May 6, 2004. Please reconsider the claims pending in the application for reasons discussed below.

In the specification, the paragraphs [0050] through [0053] have been amended to correct minor editorial problems. In the previous Response to Office Action Dated August 28, 2003 the content of paragraph [0052] was mistakenly identified as paragraph "[0051]" and the amendment could not be entered as previously presented. Applicant believes that none of the amendments to paragraphs [0050] through [0053] introduces new matter.

Claims 1 - 25 remain pending in the application and are shown above. Claims 11-23 stand withdrawn by the Examiner. Claims 1-10, 24 and 25 are rejected by the Examiner. Claims 1-23 and 25 are cancelled by Applicant in this response. Reconsideration of the rejection of claim 24 is requested for reasons presented below.

Claim 24 is amended to correct a minor editorial problem. This amendment is not presented to distinguish a reference, thus, the claim as amended is entitled to a full range of equivalents if not previously amended to distinguish a reference.

This response is intended as a full and complete response to the Final Office Action dated February 6, 2004. Because claims 1-23 and 25 have been cancelled by Applicant, the following remarks will be limited to the objections and rejections concerning claim 24.

Claim 24 is objected to because of informalities. Applicant thanks the Examiner for her suggestion and has amended the claim accordingly by amending the word "to" to the word "in" in line 2. Withdrawal of the objection is respectfully requested.

Claim 24 stands rejected under 35 USC § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention. The Examiner did not indicate in the Final Office Action dated February 6, 2004 a particular basis of the rejection other than grounds for objection to claim 24. Thus, Applicant believes claim 24 as amended is definite and distinct. Withdrawal of the rejection is respectfully requested.

Claim 24 stands rejected under 35 USC § 103(a) in view of *Ashjaee et al.* (US Patent Application Publication No. 2003/0029731). Applicant respectfully traverses the rejection. Applicant agrees with the Examiner's comment that the reference *Ashjaee et al.* does not teach varying the magnitude of the second electrical bias relative to the first electrical bias as the metal layer is formed. However, the Examiner errs in finding that claim 24 is obvious from the disclosure of *Ashjaee et al.* The subject matter of claim 24 is not obvious from *Ashjaee et al.* and the reference is not prior to possession of the same subject matter by Applicant.

The reference *Ashjaee et al.* does not teach, show, or suggest varying the magnitude of the second electrical bias relative to the first electrical bias as the metal layer is formed as asserted by the Examiner because *Ashjaee et al.* teaches the inversion of polarity when changing from electroplating to electropolishing. Applicant claims varying the magnitude of the second electrical bias (the second electrical bias removes metal from the substrate) as the metal layer is formed, whereas *Ashjaee et al.* does not teach, show or suggest varying the magnitude of the second electrical bias as a metal layer is formed. Applicant respectfully submits that the Examiner errs in interpreting the term "varying" to refer to switching from electroplating to electropolishing. Applicant submits that "varying the magnitude of the second electrical bias" relates to the rate of material removal. (*underlining added for emphasis*) See paragraph [0054] of Applicant's patent application. Therefore, *Ashjaee et al.* does not teach, show, or suggest "varying the magnitude of the second electrical bias relative to the first electrical bias as the metal layer is formed", as recited in claim 24. Withdrawal of the rejection is respectfully requested.

Applicant further traverses the rejection of claim 24 on grounds that *Ashjaee et al.* (US Patent Application Publication No. 2003/0029731), is not prior art to the present

application. *Ashjaee et al.* was filed on October 3, 2002 after the filing date of the present application on September 21, 2001. Furthermore, Applicant has reviewed *Ashjaee et al.*'s related applications Serial No. 09/735,546 (now US Patent No. 6,482,307) filed on December 14, 2000, and Serial No. 09/685,934 (now US Patent No. 6,497,800) filed on October 11, 2000, and corresponding provisional applications Serial No. 60/203,944 filed May 12, 2000 and Serial No. 60/190,023 filed March 17, 2000. Applicant submits that neither of the provisional applications related to *Ashjaee et al.* (US Patent Application Publication No. 2003/0029731) support the subject matter in *Ashjaee et al.* relied upon by the Examiner in the rejection of pending claim 24.

To the extent reference *Ashjaee et al.* (US Patent Application Publication No. 2003/0029731) includes subject matter relied on by the Examiner in the rejection of pending claim 24, the present application shows possession by Applicant of the same subject matter prior to October 11, 2000, as established by the accompanying 37 C.F.R. 1.131 Declaration. The declaration refers to an invention alert which supports the assertions that the subject matter relied on by the Examiner was possessed by Applicant prior to October 11, 2000, the filing date of Serial No. 09/685,934 (now US Patent No. 6,497,800), which is the earliest disclosure showing possession of the subject matter relied on by the Examiner. Therefore *Ashjaee et al.* (US Patent Application Publication No. 2003/0029731) cannot be properly used as a reference to teach, show or suggest claimed aspects of the invention. Withdrawal of the rejection is respectfully requested.

In conclusion, the references cited by the Examiner, alone or in combination, do not teach, show, or suggest the invention as claimed.

The secondary references made of record are noted. However, it is believed that the secondary references are no more pertinent to the Applicant's disclosure than the primary references cited in the Final Office Action. Therefore, Applicant believes that a detailed discussion of the secondary references is not necessary for a full and complete response to this Final Office Action.

Having addressed all issues set out in the Final Office Action, Applicant respectfully submits that the claims are in condition for allowance and respectfully request that the claims be allowed.

Respectfully submitted,



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